

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
NORTHEASTERN DIVISION

James Kenyi,)	
)	Case No. 2:10-cv-108
Petitioner,)	
)	
-vs-)	ORDER ADOPTING REPORT AND
)	RECOMMENDATIONS
Eric Holder, Jr., Attorney General, et al.,)	
)	
Respondents.)	

The Court has received a Report and Recommendation from the Honorable Karen K. Klein, United States Magistrate Judge, pursuant to 28 U.S.C. § 636, recommending that Respondents' motion to dismiss be granted and Petitioner's habeas corpus petition be denied as moot (Doc. #9). No party has objected to the Report and Recommendation within the deadline set forth in the Report and Recommendation.

The Court has reviewed the Report and Recommendation, along with the entire file, and agrees with the Magistrate Judge's analysis and recommendations. Accordingly, the Court hereby adopts the Report and Recommendation in its entirety. For the reasons set forth therein, Respondents' motion to dismiss (Doc. #8) is **GRANTED**, and Petitioner's habeas corpus petition (Doc. #4) is **DENIED as moot**. This case is hereby **DISMISSED with prejudice**.

The Court hereby certifies that an appeal from the dismissal of this action may not be taken *in forma pauperis* because such an appeal would be frivolous and cannot be taken in good faith. See Coppedge v. United States, 369 U.S. 438, 444-45 (1962). Furthermore, the Court finds that Petitioner has failed to make a substantial showing of the denial of a constitutional right, and the issues presented in this case are inadequate to deserve further consideration. See Miller-El v.

Cockrell, 537 U.S. 322, 327 (2003). Therefore, the Court will not issue a certificate of appealability. If Petitioner desires further review of his petition for a writ of habeas corpus under 28 U.S.C. § 2241, he may request the issuance of a certificate of appealability by a circuit judge of the Eighth Circuit Court of Appeals in accordance with Tiedeman v. Benson, 122 F.3d 518, 520-22 (8th Cir. 1997).

IT IS SO ORDERED.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated this 24th day of February, 2011.

/s/ Ralph R. Erickson
Ralph R. Erickson, Chief Judge
United States District Court